



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes MNRL-S, FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (Application) pursuant to the *Residential Tenancy Act* (the *Act*) for a monetary order for unpaid rent pursuant to section 67; authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) and the tenant attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Preliminary Matters

At the outset of the hearing the tenant referred to a previous hearing with the Residential Tenancy Branch in which the matter of the security deposit for this tenancy was conclusively decided. I have noted the file number of the related decision in the Style of Cause of this Decision. *Res judicata* prevents a plaintiff from pursuing a claim that already has been decided and also prevents a defendant from raising any new defense to defeat the enforcement of an earlier judgment. The rule provides that when a court of competent jurisdiction has entered a final judgement on the merits of a cause of action, the parties to the suit are bound not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose. A final judgment on the merits bars further claims by the same parties based on the same cause of action. I find that the landlord's monetary claim to retain the security deposit is *res judicata*, meaning the matter has already been conclusively decided and cannot be decided again. Therefore, for the reasons above, I decline jurisdiction to hear the portion of the landlord's Application related to retaining the security deposit as it has already been decided.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings,

the settlement may be recorded in the form of a decision or an order. During this hearing, the parties reached an agreement to settle their dispute.

Both parties agreed to the following terms of a final and binding resolution of the landlord's Application and the issues in dispute arising out of this tenancy at this time and that they did so of their own free volition and without any element of coercion:

1. The tenant agreed to pay compensation in the amount of \$1,280.00 to the landlord, by way of electronic funds transfer to the e-mail address noted on the Style of Cause of this Decision, in three separate installments detailed as follows.
2. The first payment in the amount of \$320.00 will be made on February 01, 2021.
3. The second payment in the amount of \$320.00.00 will be made on or before February 28, 2021.
4. The third payment in the amount of \$640.00.00 will be made on or before March 31, 2021.
5. Both parties agreed that these particulars comprise the full settlement of all aspects of the landlord's current Application to seek compensation for unpaid rent.

Conclusion

In order to implement the above settlement reached between the parties, I grant a Monetary Order in the landlord's favour in the amount of **\$1,280.00**. The landlord is provided with these Orders and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 01, 2021

Residential Tenancy Branch